

**Minutes
HEARING OFFICER
SEPTEMBER 3, 2013**

Minutes of the regular public hearing of the Hearing Officer, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Present:

Vanessa MacDonald, Hearing Officer
Steve Abrahamson, Planning & Zoning Coordinator
Sherri Lesser, Senior Planner
Diana Kaminski, Senior Planner
Julie Stennerson, Executive Assistant

Number of Interested Citizens Present: 9

Meeting convened at 1:38 PM and was called to order by Ms. MacDonald. She noted that anyone wishing to appeal a decision made by the Hearing Officer would need to file a written appeal to that decision within fourteen (14) days, by September 17, 2013 at 3:00 PM, to the Community Development Department.

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1. Ms. MacDonald noted that the Hearing Officer Minutes for August 20, 2013 had been reviewed and approved.

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2. Request approval for a Variance to reduce the front yard setback; a Variance to allow a fence/wall in excess of 6'-0" in height; and a Variance to increase the lot coverage from 45% to 52% for the **HIPPS RESIDENCE (PL130108)** located at 1404 East Lemon Street. The applicant is William Hipps.

William Hipps was present to represent this case.

Diana Kaminski introduced the case. The property is located north of Apache Boulevard, within the Borden Homes/Tomlinson Estates Neighborhood. The site is located at the curve of the road on Lemon Street. The property did receive a Variance previously for a home addition. The applicant is requesting to keep the existing gate and fence he has constructed in the front yard setback. Due to the narrowness of the lot at the east end, the fence would have to be placed back farther to comply with the front yard setback. The other Variance requests are related to an open shade structure. The applicant wants to construct an outdoor patio/workshop area. Staff noticed paving has been added out in front of the gates and vehicles have been parked on the paved surface. One of the conditions of approval requires the front yard be restored with landscape material. The driveway shall be retained. Traffic Engineering has a limitation on the total width for driveways in residential areas. If the landscape is not restored out front there will be an issue with parking in the front yard setback. Staff has reviewed the criteria for the Variances and is recommending approval of the requests. Staff has received letters of support from residents in the area. Mr. Hipps held a neighborhood meeting. There was general support for the proposed concept at the neighborhood meeting.

Ms. MacDonald stated the property is Zoned R1-6. She asked staff what the typical lot size is for R1-6.

Ms. Kaminski stated the lot sizes vary. She reviewed the surrounding properties. The properties ranged from 6,300 – 7,800 square feet. The average lot size is 7,484 square feet. The Hipps property is an average size lot for the area.

Ms. MacDonald stated the building size for the actual dwelling is 1,467 square feet. She asked staff if this included the canopy structure.

Ms. Kaminski stated the 1,467 square feet is just the house.

Ms. MacDonald stated the house looks larger than that. She asked if the two-story addition is included in the square footage of the house.

Ms. Kaminski stated the information was obtained from the Maricopa County Assessor's Website.

Mr. Hipps stated his home is 2,000 square feet. The County Assessor was recently out to reassess the property.

Ms. MacDonald stated that opens up another question regarding the lot coverage from 45% to 52%. She asked if the percentages were calculated using a dwelling of 1,467 square feet or 2,000 square feet?

Ms. Kaminski stated the percentages were based on the information provided by the applicant.

Ms. MacDonald stated she would have Mr. Hipps address how the calculation was made. We are already talking about increasing the lot coverage. If the calculations are based on 600 less square feet, the percentage of coverage would be greater. Looking at the lot coverage, it looks like less than 52% of the remaining portion of the lot is not covered.

Mr. Hipps stated he was informed by the Planning and Zoning Department that the percentage of the lot coverage is based on the livable area.

Ms. Kaminski stated that is correct, the patio area is excluded from the lot coverage.

Mr. Hipps stated his lot size is approximately 7,400 square feet. He has about 2,033 square feet of actual livable area. The rest of the area is patio area and that does not count as lot coverage. He was originally misinformed. He was told the total roof area was the total lot coverage.

Ms. MacDonald stated if that is the case Mr. Hipps would be at about 27% for his lot coverage. He is under the 45% lot coverage allowed in the R1-6 Zoning District. Variance VAR13008 – Variance to increase the lot coverage from 45% to 52% is not necessary.

Ms. Kaminski stated that is correct. She believes the reference to the discrepancy may have come from Building Safety which has a different standard for coverage of lot. If the open patio areas were to become enclosed in the future there would be a change in the lot coverage from a Planning side.

Mr. Hipps stated the proposed covered patio would not be enclosed. He stated even though his lot is 7,400 square feet the buildable area of the lot is 31% less than the average lot in the neighborhood due to the odd shape. The side yard is the only buildable space he has available. He would like to cut the concrete in the front of the home where the existing east driveway is. The concrete would be cut into one foot squares for an architectural feature. Grass would be planted between the concrete to display a checker board of squares.

Ms. Kaminski stated the issue on the east end has to do with parking in the front yard setback. The primary parking needs to be located on the property outside of the front yard setback. It is her understanding that the existing shade area would remain as parking. She asked Mr. Hipps if he was planning to remove the driveway.

Mr. Hipps stated he wants to cut 12 inch squares, remove some of the concrete and plant grass between the squares.

Ms. MacDonald asked Mr. Hipps if the photograph on Attachment number 4 was inaccurate. Currently there is an additional shade structure from the corner of the house to the first pillar and an additional shade structure from the first pillar to the eastern wall of the property.

Mr. Hipps stated that is correct. The existing shade structure is temporary and once he starts construction it will be torn down and replaced.

Ms. MacDonald asked Mr. Hipps what his plans include.

Mr. Hipps stated the entire shade structure would come down. The new shade structure will have a roof that mirrors the roof of the house. It would be a metal roof with a peak similar to the house.

Ms. MacDonald asked Mr. Hipps about the area behind the proposed shade structure. Currently pallets and ladders are stacked up next to the two-story building.

Mr. Hipps stated the temporary side storage area in the back would be demolished. After the new shade structure is completed the back of the yard would remain open. The whole idea of the project is to not allow anything to be seen from the street. The property will look like a nice big house. This will be an improvement for the neighborhood and help clean up the stuff stored in the back yard.

Ms. MacDonald asked Mr. Hipps the nature of the business he operates out of his home.

Mr. Hipps stated he has a roofing company.

Ms. MacDonald asked Mr. Hipps if the items being stored are roofing materials.

Mr. Hipps replied, yes.

Ms. MacDonald stated this is really an intense use for the single family neighborhood Mr. Hipps lives in.

Mr. Hipps stated he is taking a lot of his stuff offsite. He is in the middle of building another yard for storage. He plans to keep his tools at his residence so they are not stolen. Moving the other materials to an offsite location will help clean up the property.

Ms. MacDonald stated one of her responsibilities includes abatements. She has to abate a lot of properties in which residents often gather materials and have such a large amount of material that the City has to go in and clean up the property. When she drove by the property yesterday she believed the property looked like a hoarding situation. Her inclination was not to grant the applicant more space in which he could collect more stuff. Collecting more stuff could become a situation for Code Compliance.

Mr. Hipps assured Ms. MacDonald that he has made provisions to move most of the stuff away to another location. The yard will be much cleaner and look good. He stated he has spent a lot of time cleaning up the property two blocks away at the corner of Una Butte and Apache Boulevard. He has spent a lot of his own money at the site and helped build a park. He put in a sprinkler system, planted about 15 trees, broke out the old concrete slab and hauled off the debris. Mr. Hipps has done a lot of work in the area and he cares about his neighborhood. The addition will make the neighborhood look better, raise the property values and it will be safer.

Ms. MacDonald asked Mr. Hipps the height of the existing gates.

Mr. Hipps stated the gates are 6 foot. He is asking to extend the gates to 7 feet – 8 inches.

Ms. MacDonald asked if the proposed gate would be just under the edge of the roof.

Mr. Hipps stated the roof would be about 10 feet. There would be about a 2 foot difference between the gate and the roof. He stated the new roof line for the covered patio would be a little higher than the roof line on the house.

Ms. Kaminski asked Mr. Hipps if he was planning to replace the existing gate.

Mr. Hipps stated he would keep the copper gate and extend it an additional 2 feet.

Ms. Kaminski stated staff was not aware the plans included an addition to the existing fence. She believed the fence was already at the proposed height.

Mr. Hipps stated the higher fence would improve the neighborhood and make the property safer. He has had a lot of break-ins. He noted the police reports included in the packet.

Ms. MacDonald stated she thought Mr. Hipps was going to mirror the existing roof on the house. She thought the peak of the roof for the shade structure would be the same as the house.

Mr. Hipps stated the peak of the shade structure would be 6 inches to 1 foot higher than the house.

Ms. MacDonald stated this would create a third roof line on the property instead of a continuation of the existing roof line of the main residence.

Ms. Kaminski suggested a continuance to obtain drawings from the applicant that reflect exactly what is being proposed. The information provided and the letter of intent was not clear.

Ms. MacDonald stated she was having a hard time understanding the applicant's request. A roof plan and elevation plan from the front of the property would be helpful. Ms. MacDonald would like to continue the case to September 17, 2013. She would like Mr. Hipps to provide the requested drawings for a better understanding of the project.

Mr. Hipps agreed to return in two weeks.

Ms. MacDonald stated Mr. Hipps has good neighborhood support for his project. She would just like to make sure esthetically the end result is something everyone is happy with.

DECISION:

Ms. MacDonald continued PL130108/VAR13006/VAR13007/VAR13008 to September 17, 2013.

3. Request approval for a Use Permit to allow for the overnight boarding of animals with an outdoor play yard for **LOST OUR HOME PET FOUNDATION (PL130298)** located at 2315 South Hardy Drive. The applicant is Jodi Polanski.

Jodi Polanski was present to represent this case.

Sherri Lesser introduced the case. This request is for a Use Permit to allow overnight boarding of animals. The site is located in the General Industrial District, south of Broadway Road on the east side of Hardy Drive. This site is near the University Animal Hospital. It is not near any residential use. This is a very good area for boarding animals. Most of the businesses in the area are day time uses. The facility will have someone on staff overnight. Conditions of approval have been added to minimize the possibility of the animals from becoming a nuisance. Staff has not received any public input regarding this request. Staff is recommending approval of the Use Permit.

Ms. MacDonald asked if the Use Permit was just for boarding animals overnight.

Ms. Lesser stated the Use Permit is necessary for the overnight boarding. If the establishment was a veterinary office the animals would be allowed overnight boarding by right.

Ms. Polanski agreed to the conditions of approval.

Ms. MacDonald noted condition of approval number 6. Replace all dead or missing landscape material on site prior to the use permit becoming effective.

Ms. Polanski stated the owner of the building is present and would like some clarification on the conditions regarding the landscaping and the lighting for the building.

Ms. Lesser stated the conditions are standard conditions imposed whenever a new use goes in to a building to bring the property into compliance. A meeting can be scheduled with the Planning Inspector for an onsite assessment. The Planning Inspector and the property owner will need to come to an agreement for minimal upgrades required by the City.

Ms. MacDonald stated this language is added when applicants are going into an existing building. There may be deficiencies in landscaping and lighting. This is viewed as an opportunity to spruce up any of the things on site that need to be remediated. The process will help bring the building into compliance.

Ms. MacDonald noted condition of approval number 4. Hours of operation to be from 10 am to 7 pm seven days a week, with staff available in the evening for overnight care of the animals.

Ms. Polanski stated the overnight shift is so that someone is always onsite for the animals. The owners are doing a lot to improve the facility. They are going through the permit process for painting and signage so the building will look nicer.

There was no public input.

Ms. MacDonald noted that this request meets the criteria for a Use Permit:

1. Traffic generated by this use should not be excessive.
2. It won't create a nuisance resulting from odor, dust, gas, noise, vibration, smoke, heat or glare.
3. It won't contribute to the deterioration of the neighborhood.
4. It is compatible with existing surrounding structures and uses.
5. Will allow you to adequately control disruptive behavior both inside and outside the property.

DECISION:

Ms. MacDonald approved PL130298/ZUP13100 subject to the following conditions:

1. This Use Permit is valid only after permits have been obtained for tenant improvements and signage and the required inspections have been completed and a Final Inspection has been passed.
2. The Use Permit is valid for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
3. If there are any complaints arising from the Use Permit that are verified by a consensus of the complaining party and the City Attorney's office, the Use Permit will be reviewed by City staff to determine the need for a public hearing to re-evaluate the appropriateness of the Use Permit.
4. Hours of operation to be from 10am to 7pm seven days a week, with staff available in the evening for overnight care of the animals.
5. Any non-conforming lighting shall be upgraded to meet current light levels in parking, pedestrian areas and at doorways for the safety of customers and staff.
6. Replace all dead or missing landscape material on site prior to the use permit becoming effective.
7. Animals shall be attended by staff during entire outdoor time, and brought into the facility if noise becomes a disturbance. No animals shall be left unattended outdoors.
8. Submit for Development Plan Review approval for the outdoor area and proposed shade canopy on east side of building. Obtain all necessary Building Safety clearances and permits for the structures in this area.

Mr. Abrahamson acknowledged Sherri Lessor's 25 years with the City.

The next Hearing Officer public hearing will be held on September 17, 2013.

There being no further business the public hearing adjourned at 2:15 PM.

Prepared by: Julie Stennerson, Executive Assistant
Reviewed by:

A handwritten signature in blue ink that reads "Steve Abrahamson". The signature is written in a cursive style and is placed on a light blue rectangular background.

Steve Abrahamson, Planning & Zoning Coordinator
for Vanessa MacDonald, Hearing Officer

SA:js